



BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

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MAY 04 2005

In re Application
Yihua Chang
Application No. 09/814,403
Filed: March 22, 2001
Attorney Docket No. 11302-1190(44040-
256047)

OFFICE OF PETITIONS

:
:
: **DECISION ON APPLICATION**
: **FOR PATENT TERM ADJUSTMENT**
:

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN NOTICE OF ALLOWANCE (37 CFR 1.705(b)," filed December 20, 2004.

The instant application for patent term adjustment requests reconsideration of the patent term adjustment at the time of the mailing of the notice of allowance, the application for patent term adjustment is **DISMISSED**.

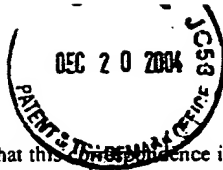
To the extent that the instant application for patent term adjustment requests reconsideration of the patent term adjustment at the time of the mailing of the notice of allowance as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b).

Additionally, applicant has not provided a basis for why they believe they are entitled to one hundred and seventy-eight (178) additional days.

Patentee is given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Patentee may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Telephone inquiries specific to this matter should be directed to Patricia Faison-Ball, Senior Petitions Attorney, at (571) 272-3212.

Karin Ferrner
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy



I hereby certify that this ~~information~~ is being deposited with the United States Postal Service, with sufficient postage, as first class mail in an envelope addressed to:

Mail Stop Patent Ext
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
December 16, 2004

Date of Deposit

[Signature] 12-16-04
Signature

Our Case No. 659/1625

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Yihua Chang et al.

Serial No. 09/814,403

Filing Date: **March 22, 2001**

Title: **WATER-DISPERSIBLE, CATIONIC
POLYMERS, A METHOD OF MAKING
SAME AND ITEMS USING SAME**

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)
) **Examiner: Bernard Lipman**
)
) **Group Art Unit No. 1713**
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**REQUEST FOR RECONSIDERATION OF
PATENT TERM ADJUSTMENT
PURSUANT TO 37 C.F.R. § 1.705(b)**

Mail Stop Patent Ext
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

12/21/2004 HROCHA2 00000097 09814403

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Dear Sir:

A notice of allowance was issued for the present application on **September 16, 2004** indicating that the issue fee is due on **December 16, 2004**. The issue fee is being submitted for the present application in conjunction with this request for reconsideration of the patent term adjustment. The Patent Application Information Retrieval (PAIR) system and the notice of

Reduction in Period of Adjustment pursuant to 37 C.F.R. § 1.704**Period of adjustment pursuant to 37 C.F.R. § 1.704(b)**

Pursuant to 37 C.F.R. § 1.704(b), the period of adjustment shall be reduced by the number of days, if any, beginning on the day after the date (the 3 month date) that is three months after the date of mailing or transmission of an Office communication notifying the applicant of a rejection, objection, etc., and ending on the date a corresponding reply was filed.

In the present application, responses to Office Actions were received by the U.S. Patent and Trademark Office after the 3 month date at three separate times – April 21, 2003; November 6, 2003; and June 24, 2004 – as noted on the Patent Term Adjustment History (Exhibit B). The total delay by Applicants under 37 C.F.R. § 1.703(b) was thus **133 days**.

Period of adjustment pursuant to 37 C.F.R. § 1.704(c)

Pursuant to 37 C.F.R. § 1.704(c)(7), when a reply has an omission, the period of adjustment shall be reduced by the number of days, if any, beginning on the date the reply having an omission was filed and ending on the date that the reply correcting the omission was filed.

In the present application, an incomplete response to a restriction requirement was received by the U.S. Patent and Trademark Office on September 30, 2002, and the completed response was received by the U.S. Patent and Trademark Office on November 25, 2002. The total delay by Applicants under 37 C.F.R. § 1.703(c) was thus **56 days**.

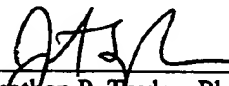
Total patent term adjustment

For the present application, the total patent term adjustment pursuant to 37 C.F.R. § 1.703(f) is the period of adjustment pursuant to 37 C.F.R. § 1.703 reduced by any delays pursuant to 37 C.F.R. § 1.704. Thus, according to our calculations, we believe that the patent term adjustment should be (89+178) days - (133+56) days = 78 days, instead of zero (0) days indicated on the Notice of Allowance attached as Exhibit A.

It is respectfully asserted that the patent term adjustment determined by the U.S. Patent and Trademark Office for the present application may not be correct. Accordingly, Applicants respectfully request the U.S. Patent and Trademark office to reconsider, and make revisions to the PAIR system Patent Term Adjustment History in view of the previous remarks. In addition, it is respectfully requested that the patent term adjustment be re-calculated by the U.S. Patent and Trademark Office in view of the above remarks. Office personnel are invited to contact the undersigned via telephone if such communication would be beneficial in fulfilling this request.

Respectfully submitted,

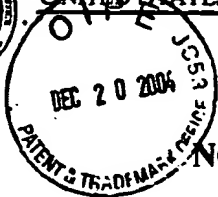
12-16-04


Jonathan P. Taylor, Ph.D.
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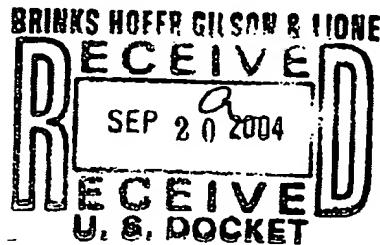
UNITED STATES PATENT AND TRADEMARK OFFICE



UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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www.uspto.gov

NOTICE OF ALLOWANCE AND FEE(S) DUE

757 7590 09/16/2004
BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610



EXAMINER	
LIPMAN, BERNARD	
ART UNIT	PAPER NUMBER
1713	

DATE MAILED: 09/16/2004

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/814,403	03/22/2001	Yihua Chang	11302-1190 (44040-256047)	3830

TITLE OF INVENTION: WATER-DISPERSIBLE, CATIONIC-POLYMERS, A METHOD OF MAKING SAME AND ITEMS USING SAME

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1330	\$300	\$1630	12/16/2004

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. **PROSECUTION ON THE MERITS IS CLOSED.** THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN **THREE MONTHS** FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. **THIS STATUTORY PERIOD CANNOT BE EXTENDED.** SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE REFLECTS A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE APPLIED IN THIS APPLICATION. THE PTOL-85B (OR AN EQUIVALENT) MUST BE RETURNED WITHIN THIS PERIOD EVEN IF NO FEE IS DUE OR THE APPLICATION WILL BE REGARDED AS ABANDONED.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL should be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). Even if the fee(s) have already been paid, Part B - Fee(s) Transmittal should be completed and returned. If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/814,403	03/22/2004	Yihua Chang	11302-1190 (44040-256047)	3830
757 7590 09/16/2004 BRINKS HOFER GILSON & LIONE P.O. BOX 10395 CHICAGO, IL 60610			EXAMINER LIPMAN, BERNARD	
			ART UNIT	PAPER NUMBER
			1713	

DATE MAILED: 09/16/2004

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 0 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 0 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (703) 305-1383. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at (703) 305-8283.



UNITED STATES PATENT AND TRADEMARK OFFICE

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www.uspto.gov

APPLICATION NO.	FILED DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/814,403	DEC 20 2004 09/16/2004	Yihua Chang	11302-1190 (44040-256047)	3830
EXAMINER				
LIPMAN, BERNARD				
ART UNIT		PAPER NUMBER		
1713				

DATE MAILED: 09/16/2004

Notice of Fee Increase on October 1, 2004

If a reply to a "Notice of Allowance and Fee(s) Due" is filed in the Office on or after October 1, 2004, then the amount due will be higher than that set forth in the "Notice of Allowance and Fee(s) Due" because some fees will increase effective October 1, 2004. See Revision of Patent Fees for Fiscal Year 2005; Final Rule, 69 Fed. Reg. 52604, 52606 (May 10, 2004).

The current fee schedule is accessible from WEB site (<http://www.uspto.gov/main/howtofees.htm>).

If the fee paid is the amount shown on the "Notice of Allowance and Fee(s) Due" but not the correct amount in view of the fee increase, a "Notice of Pay Balance of Issue Fee" will be mailed to applicant. In order to avoid processing delays associated with mailing of a "Notice of Pay Balance of Issue Fee," if the response to the Notice of Allowance is to be filed on or after October 1, 2004 (or mailed with a certificate of mailing on or after October 1, 2004), the issue fee paid should be the fee that is required at the time the fee is paid. See Manual of Patent Examining Procedure (MPEP), Section 1306 (Eighth Edition, Rev. 2, May 2004). If the issue fee was previously paid, and the response to the "Notice of Allowance and Fee(s) Due" includes a request to apply a previously-paid issue fee to the issue fee now due, then the difference between the issue fee amount at the time the response is filed and the previously-paid issue fee should be paid. See MPEP Section 1308.01.

Effective October 1, 2004, 37 CFR 1.18 is amended by revising paragraphs (a) through (c) to read as set forth below.

Section 1.18 Patent post allowance (including issue) fees.

- (a) Issue fee for issuing each original or reissue patent, except a design or plant patent:
- By a small entity (Sec. 1.27(a))..... \$685.00
 - By other than a small entity..... \$1,370.00
- (b) Issue fee for issuing a design patent:
- By a small entity (Sec. 1.27(a))..... \$245.00
 - By other than a small entity..... \$490.00
- (c) Issue fee for issuing a plant patent:
- By a small entity (Sec. 1.27(a))..... \$330.00
 - By other than a small entity..... \$660.00

Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at (703) 305-8283.

allowance both indicate a patent term adjustment that was calculated by the U.S. Patent office pursuant to 37 C.F.R. 1.701 of **zero (0)** days. A copy of Notice of Allowance for the present application is included herewith as Exhibit A.

Applicants believe that the patent term adjustment should be **78** days. For the reasons stated herein, reconsideration of the patent term adjustment is respectfully requested pursuant to 37 C.F.R. 1.705(b). Enclosed is a check in the amount of \$200 for the petition fee pursuant to 37 C.F.R. § 1.18(e) to Deposit Account No. 23-1925. Please charge any additional fee required or credit for any excess fee paid to Deposit Account No. 23-1925.

The patent term adjustment for the present application was calculated by the U.S. Patent and Trademark Office based on activities and associated dates detailed in the Patent Application Information Retrieval (PAIR) system Patent Term Adjustment History, attached as Exhibit B. Applicants believe that errors and/or omissions in the calculation and/or the PAIR system Patent Term Adjustment History may have resulted in an incorrect patent term adjustment for the present application as described in detail below. The present application is not subject to a terminal disclaimer.

Period of adjustment pursuant to 37 C.F.R. § 1.703

Period of adjustment pursuant to 37 C.F.R. § 1.703(a)

The period of adjustment pursuant to 37 C.F.R. § 1.703(a)(1) is the number of days in the period beginning on the day ("the 14 month date") after that date that is fourteen months after the date on which the application was filed pursuant to 35 U.S.C. § 111(a), or fulfilled the requirements pursuant to 35 U.S.C. § 371, and ending on the date of mailing or either an action pursuant to 35 U.S.C. § 132 or a notice of allowance pursuant to 35 U.S.C. § 151, whichever comes first.

The present application was filed on **March 22, 2001**. The 14 month date specified in 37 C.F.R. § 1.703(a) is **May 22, 2002**. According to the PAIR system Patent Term Adjustment History, attached as Exhibit B, the first action on the merits by the U.S. Patent and Trademark Office in the present application was a requirement for restriction mailed on **August 10, 2002**. Applicants are in agreement with the calculation by the U.S. Patent and Trademark Office that the Office's delay under 37 C.F.R. § 1.703(a)(1) was **89 days**.

Period of adjustment pursuant to 37 C.F.R. § 1.703(b)

The period of adjustment pursuant to 37 C.F.R. § 1.703(b) is the number of days in the period beginning on the day ("the 3 year date") after the date that is three years after the date on which the application was filed pursuant to 35 U.S.C. § 111(a) or fulfilled the requirements pursuant to 35 U.S.C. § 371.

The present application was filed on **March 22, 2001**. The 3 year date specified in 37 C.F.R. § 1.703(b) is **March 22, 2004**. On the date of mailing of the notice of allowance, the present application had exceeded the 3 year date by **178 days**. Applicants expect that additional non-overlapping delay can reasonably be expected prior to a patent issuing for the present application. Applicants therefore request re-computation of the period of adjustment pursuant to 37 C.F.R. § 1.703 upon identification of the date of issue of the patent of the present application to reflect this delay. With this request, Applicants further reserve the right to request reconsideration of the patent term adjustment pursuant to 37 C.F.R. § 1.705(d) if the term of the issued patent is believed to be extended or adjusted incorrectly.